



Christmas Island (Coronavirus Emergency— Airport, Transportation and Aircraft Travel (Face Mask)) Direction 2021

I, Scott Burger, Territory Controller, make the following direction.

Dated 22nd January 2021

A handwritten signature in blue ink, appearing to be 'S. Burger'.

Scott Burger
A/AFP Officer-in-charge
Territory Controller

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Part 1—Preliminary

1 Name

This instrument is the *Christmas Island (Coronavirus Emergency—Airport, Transportation and Air Travel (Face Mask)) Direction 2021*.

2 Commencement

This instrument commences at 12:01am 23 January 2021.

3 Authority

- (1) I am the Territory Controller for the purposes of the Ordinance. I am authorised by section 13 of the Ordinance, during a state of emergency for the purpose of emergency management, to exercise a power of an authorised officer in accordance with Division 2 of Part 3 of the Ordinance.
- (2) I am an authorised officer for the purposes of the PH Act, authorised to exercise the ‘serious public health incident powers’ set out in Part 11 of that Act, in relation to a ‘serious public health risk’ to which the authorisation relates. The authorisation relates to the public health risk from COVID-19, a human coronavirus which has been declared a worldwide pandemic by the World Health Organisation on 11 March 2020.
- (3) I am satisfied that this direction is reasonably required during a state of emergency for the purposes of emergency management, namely reducing the risk to the community that persons who arrive from outside the Territory may cause or contribute to the possible spread of COVID-19. This is a significant risk because there are no tertiary hospitals in the Territory and because of the remoteness of the Territory.
- (3) Accordingly, I make:
 - (a) Part 1 of this instrument under subsection 22(1) of the Ordinance and paragraph 157(1)(k) of the PH Act; and
 - (b) Division 1 of Part 3 of this instrument under subsection 22(1) of the Ordinance; and
 - (c) all other provisions of this instrument under paragraph 157(1)(k) of the PH Act.

Note 1: If a person does not comply with a direction given under the Ordinance, an authorised officer may do all things reasonably necessary to ensure compliance with the direction, using force as is reasonable in the circumstances (subsection 22(3) of the Ordinance).

Note 2: A person commits an offence if the person fails to comply with a direction or obstructs or hinders the Territory Controller or an authorised officer in the exercise of a power

under the Ordinance, punishable by a significant monetary fine (sections 30 and 31 of the Ordinance).

Note 3: Failure to comply with a direction given under paragraph 157(1)(k) of the PH Act without reasonable excuse constitutes an offence for which significant monetary penalties may apply.

4 Revocation

This instrument revokes any other direction that relates to the wearing of face masks at airports, while engaging in transport services and during aircraft travel.

5 Definitions

In this instrument:

active airport: an airport is an **active airport** during any period:

- (a) starting at the earlier of the following in relation to a domestic aircraft:
 - (i) if a flight for the transport of passengers on the aircraft is scheduled—
3 hours before the scheduled departure time;
 - (ii) the time the aircraft lands at the airport; and
- (b) ending at the later of the following:
 - (i) the time the aircraft takes off from the airport;
 - (ii) the time the last of any persons who have disembarked from the aircraft exits the airport.

airport means an area of land or water that is used or intended to be used for the landing and take-off of aircraft, and includes any aircraft, jetway or gangway (however described), terminal, baggage handling facility and other buildings or facilities on the land or water that are ancillary to or connected with the operation of the airport, if any, but does not include any building or facility outside the terminal or any outdoor space at which, or in which, the persons working, or present, do not at any time knowingly come into contact with any person who is present at the airport for the purposes of travel.

direction means a direction under the Ordinance or PH Act, whether the direction is given orally or in writing.

domestic aircraft means an aircraft that is being used to transport passengers or carry freight or for training purposes, whether on a commercial basis or otherwise, and which takes off or lands at an airport in the Territory but does not include:

- (a) an aircraft involved in the provision of emergency services; or
- (b) an aircraft being used for a flight that is not a commercial flight and which is carrying less than 5 passengers.

driver, in relation to a vehicle, means the person operating or otherwise in control of the vehicle while it is travelling.

engaged in transport services means travelling in a vehicle of any kind, including a private vehicle, ride-share vehicle or taxi and whether as a passenger or driver where the particular passenger or driver knows or ought reasonably to have known that at least one person in the vehicle is an exempt traveller, and **engaged in a transport service** has a corresponding meaning.

exempt traveller means a person who:

- (a) has been granted an exemption to subsection 7(2) of the *Christmas Island (Coronavirus Emergency—Entry and Quarantine) Direction (No. 3)* (which deals with quarantine requirements); and
- (b) is undertaking travel, required as a condition of that exemption, to:
 - (i) certain premises; or
 - (ii) a particular vessel.

face mask means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).

flight crew means a member of the crew of a domestic aircraft.

Ordinance means the *Christmas Island Emergency Management Ordinance 2012*.

PH Act means the *Public Health Act 2016* (WA)(CI).

relevant flight means a flight of a domestic aircraft:

- (a) that commences outside the Territory and is intended to arrive at an airport in the Territory; and
- (b) for which the scheduled departure time is at or after the commencement of this instrument.

Territory means the Territory of Christmas Island.

Territory airspace means the airspace over the Territory.

Part 2—Airports and transport services

6 Direction to wear face mask

Unless the Territory Controller directs otherwise, a person must wear a face mask at all times while they are at an active airport, or engaged in transport services, in the Territory, unless:

- (a) the person is a child 12 years of age or under; or
- (b) the person has a physical or mental illness, condition or disability which makes wearing a face mask unsuitable; or
- (c) the person is in custody; or
- (d) the person falls within one or more of the exceptions specified in section 7 and is carrying a face mask.

Note 1: For paragraph (c), nothing in this instrument affects any other power a person may have to require a prisoner or detainee to wear a face mask.

Note 2: Failure to comply with this direction without reasonable excuse constitutes an offence for which significant monetary penalties may apply.

7 Exceptions to direction to wear face mask

The exceptions specified in this section are as follows:

- (a) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication;
- (b) the nature of the person's work means that wearing a face mask creates a risk to their health and safety;
- (c) the nature of the person's work means that clear enunciation or visibility of the mouth is essential;
- (d) the person is working in the absence of others in an enclosed indoor space (unless and until another person enters that indoor space);
- (e) the person is travelling in a private vehicle and is the sole occupant of that vehicle;
- (f) the person is working by themselves in an outdoor space, provided no other person in the outdoor space is within 1.5 metres of the person;
- (g) the person is engaged in any strenuous physical exercise;
- (h) the person is consuming food, drink or medicine provided that the person:
 - (i) is seated at the time; and
 - (ii) is not in a vehicle at the time; and
 - (iii) resumes wearing the mask as soon as practicable;
- (i) the person is asked to remove the face mask to ascertain identity;
- (j) not wearing a face mask is required for emergency purposes (other than emergency preparation or emergency preparation activities, unless another exception specified in this section applies);

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- (k) not wearing a face mask is otherwise required or authorised by law;
 - (l) wearing a face mask is not safe in all the circumstances.

Note 1: For paragraph (d), an example is a person working by themselves in an office.

Note 2: For paragraph (g), jogging and running are examples of strenuous physical exercise.

Note 3: For paragraph (i), a person may be asked by police, security, airport or flight staff to remove a face mask to ascertain identity.

8 Exempt travellers

A person who is an exempt traveller and engages in a transport service must advise the driver and any other occupants of the vehicle that the person is an exempt traveller.

Part 3—Aircraft travel

Division 1—Person must not enter Territory unless face mask worn on flight

9 Person must not enter Territory unless face mask worn on flight

- (1) A person must not disembark from a relevant flight onto land anywhere in the Territory unless:
 - (a) the person wore a suitable face mask or face covering at all times during the flight period mentioned in subsection (2), other than any time at which the person:
 - (i) fell within one or more of the exceptions specified in section 10; and
 - (ii) was carrying a face mask; or
 - (b) the person is a child of 12 years of age or under; or
 - (c) the person has a physical or mental illness, condition or disability which makes wearing a face mask unsuitable; or
 - (d) an exemption was granted to the person under section 11 before the flight commenced.
- (2) For the purposes of paragraph (1)(a), the flight period is the period that:
 - (a) began when the person boarded the aircraft; and
 - (b) ended when the person disembarked the aircraft.
- (3) For the avoidance of doubt, this section operates in addition to, and does not derogate from, section 6 of the *Christmas Island (Coronavirus Emergency—Entry and Quarantine) Direction (No. 3)*.

10 Exceptions to requirement to wear face mask

The exceptions specified in this section are as follows:

- (a) the person is communicating with a person who is deaf or hard of hearing or for whom visibility of the mouth is essential for communication;
 - (b) the person is consuming food, drink or medicine provided that the person is seated at the time;
 - (c) the person is asked to remove the face mask to ascertain identity;
 - (d) not wearing a face mask is required for emergency purposes (other than emergency preparation or emergency preparation activities, unless another exception specified in this section applies);
 - (e) not wearing a face mask is otherwise required or authorised by law;
 - (f) wearing a face mask is not safe in all the circumstances;
 - (g) the person is an instructor on an aircraft that is being used for the purposes of training for a trainee pilot;
 - (h) the person is a member of the flight crew of the aircraft and there are no passengers on board the aircraft at the time;
 - (i) the person is the sole occupant of the aircraft;
- provided that in each of the circumstances listed in paragraphs (a) to (f), the person must resume wearing the face mask as soon as practicable.

11 Exemption

The Territory Controller may, in writing and subject to conditions, grant an exemption to subsection 9(1).

Division 2—Direction to wear face mask while aircraft in Territory

12 Direction to wear face mask while aircraft in Territory

Unless the Territory Controller directs otherwise, a person on a domestic aircraft must wear a face mask at all times while they are on a domestic aircraft while it is on land or waters within the Territory or flying in Territory airspace unless:

- (a) the person is a child of 12 years of age or under; or
- (b) the person has a physical or mental illness, condition or disability which makes wearing a face mask unsuitable; or
- (c) the person falls within one or more of the exceptions specified in section 13 and is carrying a face mask.

Note: Failure to comply with this direction without reasonable excuse constitutes an offence for which significant monetary penalties may apply.

13 Exceptions to requirement to wear face mask

The exceptions specified in this section are as follows:

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- (a) the person is communicating with a person who is deaf or hard of hearing or for whom visibility of the mouth is essential for communication;
 - (b) the person is consuming food, drink or medicine provided that the person is seated at the time;
 - (c) the person is asked to remove the face mask to ascertain identity;
 - (d) not wearing a face mask is required for emergency purposes (other than emergency preparation or emergency preparation activities, unless another exception specified in this section applies);
 - (e) not wearing a face mask is otherwise required or authorised by law;
 - (f) wearing a face mask is not safe in all the circumstances;
 - (g) the person is an instructor on an aircraft that is being used for the purposes of training for a trainee pilot;
 - (h) the person is a member of the flight crew of the aircraft and there are no passengers on board the aircraft at the time;
 - (i) the person is the sole occupant of the aircraft;
- provided that in each of the circumstances listed in paragraphs (a) to (f), the person must resume wearing the face mask as soon as practicable.

Part 4—Miscellaneous

14 Requirements additional to any other requirement to wear mask

For the avoidance of doubt, the requirements set out in this instrument are in addition to, and do not derogate from, any other requirement to wear a mask contained in the *Christmas Island (Coronavirus Emergency—Entry and Quarantine) Direction (No. 3)* or any other direction.